

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

TALECRIS BIOTHERAPEUTICS, INC., AND )  
BAYER HEALTHCARE LLC, )

Plaintiffs, )

v. )

BAXTER INTERNATIONAL INC., AND )  
BAXTER HEALTHCARE CORPORATION, )

Defendants. )

C.A. NO. 05-349-GMS

Jury Trial Demanded

) REDACTED VERSION DI 253

BAXTER HEALTHCARE CORPORATION, )

Counterclaimant, )

v. )

TALECRIS BIOTHERAPEUTICS, INC., and )  
BAYER HEALTHCARE LLC, )

Counterdefendants. )

**PLAINTIFFS' MOTION IN LIMINE NO. 1 TO PRECLUDE BAXTER FROM  
PRESENTING TESTIMONY REGARDING ALLEGED "DESIGN AROUNDS"**

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Date: April 23, 2007

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*Attorneys for Plaintiffs and  
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Plaintiffs and Counterclaim Defendants Talecris Biotherapeutics, Inc. and Bayer Healthcare LLC ("Plaintiffs") hereby move *in limine*, pursuant to Federal Rule of Civil Procedure 37(c)(1) and Federal Rule of Evidence 702, to preclude Defendants Baxter International Inc. and Baxter Healthcare Corporation ("Baxter") from introducing testimony of an alleged "design around" proffered by their damages expert, R. Bruce Den Uyl. A proposed form of Order is attached hereto as Exhibit A.

For the reasons set forth in Plaintiffs' Memorandum of Law submitted contemporaneously herewith, Plaintiffs respectfully request that the Court enter an Order granting their Motion *In Limine* No. 1.

Respectfully submitted,

/s/ Jeffrey B. Bove

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# **EXHIBIT A**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

**TALECRIS BIOTHERAPEUTICS, INC., AND )  
BAYER HEALTHCARE LLC, )**

**Plaintiffs, )**

**v. )**

**BAXTER INTERNATIONAL INC., AND )  
BAXTER HEALTHCARE CORPORATION, )**

**Defendants. )**

**C.A. NO. 05-349-GMS**

**JURY TRIAL DEMANDED**

**BAXTER HEALTHCARE CORPORATION, )**

**Counterclaimant, )**

**v. )**

**TALECRIS BIOTHERAPEUTICS, INC., and )  
BAYER HEALTHCARE LLC, )**

**Counterdefendants. )**

**[PROPOSED] ORDER**

AND NOW, this \_\_\_\_ day of \_\_\_\_\_, 2007, upon consideration of Plaintiffs' Motion *In Limine* No. 1 to Preclude Baxter from Presenting Testimony Regarding Alleged "Design Arounds", it is hereby ORDERED that said Motion is GRANTED.

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U.S. District Court Judge Gregory M. Sleet

**CERTIFICATE OF SERVICE**

I hereby certify on this 23rd day of April, 2007 I electronically filed the foregoing **Plaintiffs' Motion *In Limine* No. 1 to Preclude Baxter from Presenting Testimony Regarding Alleged "Design Arounds"** with the Clerk of Court using CM/ECF which will send notification of such filing to the following:

|   |   |
|---|---|
| Philip A. Rovner, Esquire<br>Potter Anderson & Corroon LLP<br>Hercules Plaza<br>P. O. Box 951<br>Wilmington, DE 19899<br>(302) 984-6140<br>provner@potteranderson.com | Susan Spaeth, Esquire<br>Townsend and Townsend and Crew LLP<br>379 Lytton Avenue<br>Palo Alto, CA 94301-1431<br>(415) 576-0200<br>smspaeth@townsend.com |
|---|---|

I also hereby certify that a true copy of the foregoing document was served upon the following in the manner indicated on April 23, 2007.

|   |   |
|---|---|
| <b><u>Via Hand Delivery and E-Mail</u></b><br>Philip A. Rovner, Esquire<br>Potter Anderson & Corroon LLP<br>Hercules Plaza<br>P. O. Box 951<br>Wilmington, DE 19899<br>(302) 984-6140<br>provner@potteranderson.com | <b><u>Via Federal Express and E-Mail</u></b><br>Susan Spaeth, Esquire<br>Townsend and Townsend and Crew LLP<br>379 Lytton Avenue<br>Palo Alto, CA 94301-1431<br>(415) 576-0200<br>smspaeth@townsend.com |
|---|---|

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